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### Attorneys for the Federal Defendant

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

LAURICE McCURDY, )  
Plaintiff, ) Civil Action No. 2:08-cv-1742-PMP-(PAL)  
v. )  
LEROY KIRKEGARD, et. al., )  
Defendants. )

**FEDERAL DEFENDANT'S MOTION FOR ENLARGEMENT  
OF TIME TO RESPOND TO PLAINTIFF'S AMENDED  
COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF**

## **(First Request)**

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure and Rule 6-1 of this Court's Local Rules, Federal Defendant Aaron Fisher, Deputy United States Marshal, respectfully requests that the Court provide Federal Defendant with an extension of time, to and until July 14, 2010, within which to file a response<sup>1</sup> to Plaintiff's Amended Complaint and motion for miscellaneous relief that was filed on June 18, 2010 (Pacer document 50). Had Plaintiff effected proper service, as required by Federal Rule of Civil Procedure 4(i), Federal Defendant's response to Plaintiff's Amended Complaint

<sup>1</sup> Federal Defendant anticipates responding with, among other arguments, a motion to dismiss for failure to state a claim upon which relief can be granted.

1 would be due on June 29, 2010. However, because Plaintiff has failed to properly  
2 comply with service of process requirements, Federal Defendant is not required to  
3 respond to Plaintiff's pleadings. Nonetheless, without waiving any arguments that may  
4 be raised by Federal Defendant under Federal Rule of Civil Procedure 4, Federal  
5 Defendant respectfully requests that the Court permit it to file a response to Plaintiff's  
6 pleadings on or before July 14, 2010. In support of this request, Federal Defendant  
7 relies upon the memorandum of points and authorities set forth below.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 Federal Rule of Civil Procedure 6(b)(1) provides: "When by these rules or by a  
10 notice given thereunder or by order of court an act is required or allowed to be done at  
11 or within a specified time, the court for cause shown may at any time in its discretion (1)  
12 with or without motion or notice order the period enlarged if request therefore is made  
13 before the expiration of the period originally prescribed or as extended by a previous  
14 order . . ." In this case, Federal Defendant's request for additional time is warranted for  
15 the reasons set forth below.

16 Undersigned counsel recently received a litigation report from agency counsel  
17 providing important information pertaining to Mr. McCurdy's lawsuit as it relates to  
18 Federal Defendant Fisher. Undersigned counsel will need additional time to fully review  
19 the report and prepare a response that will assist the Court in properly adjudicating the  
20 issues presented by the Amended Complaint. Although Federal Defendant maintains  
21 that Mr. McCurdy has failed to effect proper service as required by Federal Rule of Civil  
22 Procedure 4, Federal Defendant, without waiving any appropriate arguments regarding  
23 service, intends to respond to Plaintiff's Amended Complaint and motion for  
24 miscellaneous relief. Accordingly, Federal Defendant respectfully requests that the  
25 Court permit Federal Defendant to and until July 14, 2010 within which time to file a  
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response to the Amended Complaint and the motion for miscellaneous relief.

## Conclusion

In light of the foregoing, Federal Defendant respectfully requests that the Court allow Defendant until July 14, 2010 to respond to the Amended Complaint and the motion for miscellaneous relief.

Respectfully submitted,

DANIEL G. BOGDEN  
United States Attorney

*/s/ Paul S. Padda*

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### Attorneys for the Federal Defendant

Dated: June 28, 2010

## **“IT IS SO ORDERED:**

**Without waiving any service of process arguments that may exist, Federal Defendant shall have until July 14, 2010 within which time to respond to the Amended Complaint and the motion for miscellaneous relief that was filed by Plaintiff on June 18, 2010.**

Terry A. Feen  
UNITED STATES DISTRICT JUDGE

**Dated: July 13, 2010**

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document entitled "FEDERAL DEFENDANT'S MOTION FOR ENLARGEMENT OF TIME TO RESPOND TO PLAINTIFF'S AMENDED COMPLAINT AND MOTION FOR MISCELLANEOUS RELIEF" was served by United States mail on June 28, 2010 (first-class, postage prepaid) upon the following individual:

Laurice McCurdy  
USP Victorville  
P.O. Box 5300  
Adelanto, California 92301

*181 Paul S. Padda*

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